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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,798	08/02/2000	Koji Hatanaka	35.G2637	7871

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EXAMINER

TODD, GREGORY G

ART UNIT PAPER NUMBER

2157

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/630,798

Applicant(s)

HATANAKA, KOJI

Examiner

Gregory G. Todd

Art Unit

2157

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE:

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 30-68.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.


REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:
Applicant argues neither Pavley, nor Niikawa, teach a display unit enabling a user to select between two options being separate from an image data transfer instruction unit for enabling a user to enter an instruction to transfer image data. Examiner fails to see how the two are separate, as the display unit and image data transfer instruction unit are, in fact, related as the user is presented two options on the screen (display unit limitation), and chooses (instructs) a single one of the two options as their choice (image data transfer instruction unit limitation). Further, the most recent claim amendment deleted the text of "which is a button for instructing the image data transfer" from "an image data transfer instruction unit, which is a button for instructing the image data transfer", thus the deleted text further showing the instruction as being the user choosing the option via a button, thus, while being different steps, not being separate.

Applicant further argues neither Pavley, nor Niikawa, teach a transfer control unit for transferring image data based on history information. However, Pavley teaches precisely this as Pavley teaches transferring image data according to an archive file attribute.

Applicant further argues it would not be obvious to combine Pavley with Niikawa as Pavley's system is automatic, while Niikawa is not. In response, both Pavley and Niikawa teach methods of transferring images with some sort of image history associated with each image. While, Examiner admits, Pavley does teach a more automated system, as does the current invention, even the excerpt Applicant provides in col. 2, lines 14-17, the intention is to provide "more automatic handling" of images, thus not completely automatic, but rather a more automatic system. Pavley also states "Archive file attributes designate image files that have undergone a backup procedure and can be safely deleted", thus they are not automatically deleted, rather they can be deleted at another time Pavley goes on in the rest of the description (for example, col. 4, lines 7-10) about the user manually controlling the camera. Further, Niikawa is used to simply explicitly teach allowing a user to designate transferring all the images (see col. 13, lines 25-34), (and also teaches not all the images being transferred, see col. 14, lines 1-12), and thus Niikawa teaches a fairly automatic system for transferring images- the addition of ONE step to select whether to transfer all images or only a portion does not make the system a user-intensive manual operation, rather Niikawa is still automatic as the user does not have to, for example, select each and every image. Thus, Applicants arguments that these two references would not be inclined to be used together is not persuasive, as both Pavley and Niikawa teach automatic image transfers requiring little user interaction.


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